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THE ANDHRA PRADESH GAZETTE
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PART II EXTRAORDINARY

No.507

AMARAVATI, MONDAY, JUNE 3, 2024

G.142

NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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LEGISLATURE SECRETARIAT
(COUNCIL-LEGN.)

BEFORE THE HON'BLE CHAIRMAN
ANDHRA PRADESH LEGISLATIVE COUNCIL
AT VELAGAPUDI
MONDAY, THE 3RD JUNE, 2024

Disqualification Petition No.3 of 2024

BETWEEN:

Sri Palavalasa Vikranth,
S/o. Palavalasa Rajasekharam, Aged about 51 years,
Government Whip, Member of Legislative Council,
Yuvajana Sramika Rythu Congress
Party in A.P. State Legislative Council.

AND

... PETITIONER

Sri Indukuri Raghu Raju,
S/o Rama Raju, Aged about 52 years,
Member of Legislative Council,
Yuvajana Sramika Rythu Congress
Party in A.P. State Legislative Council.

... RESPONDENT

ORDER

This petition is filed by Sri Palavalasa Vikranth, Government Whip of the YSRC Legislature Party, the Petitioner under Article 191 and X Schedule to the Constitution of India, r/w Rule 6 of the Members of the Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules, against Sri Indukuri Raghu Raju, Member, YSRCP, the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

The Petitioner in his Petition made the following submissions:

- 1.1. Sri Indukuri Raghu Raju, the Respondent, contested in the elections held in March, 2021 under Local Authorities Quota representing YSRCP in Vizianagaram District and was elected as member to the Andhra Pradesh Legislative Council for the term 2021-2027.
- 1.2. The Respondent extended his support to the Opposition Party by joining his wife, Smt. Sudha Rani along with 15 Sarpanches, 15 MPTCs and 5 Conveners of YSRC Party in the Opposition Party / Telugu Desam Party

on 04.03.2024 in the presence of TDP General Secretary Sri Nara Lokesh and Smt. Kolla Lalitha Kumari, TDP in charge, S.Kota Constituency.

1.3. They visited the office of the opposition party at Amaravathi and on the said date they have joined the Opposition political party by accepting the “khanduva” depicting the colour of the Opposition Party Flag bearing the symbol of opposition party. Immediately after joining the opposition party they have made several derogatory comments on the YSRCP leaders including the Hon’ble Chief Minister and the YSRC party. The said statements and allegations were published in print and electronic media. The joining and the derogatory comments made by them are uploaded in the official Youtube Channel of the Opposition Party and the same are widely circulated in all social media platforms.

1.4. Through the above act, the Respondent had publicly and evidently offered his support to the opposition party despite still being a member of YSR Congress Legislature Party and thereby got defected and violated the relevant provisions of the Constitution of India and the relevant rules. It has also been stated that defunctious act of the respondent has been widely broadcasted in multiple national Televisions and News papers.

1.5. The Respondent himself has attended Annual Day Celebrations of Sri Gowri Vidya Nikethan English Medium High School along with

Smt. Kolla Lalitha Kumari, TDP in charge, Srungavarapukota Constituency, and has expressed his displeasure towards the act of the YSRC Party and its leaders and stated that he does not want to continue in YSRC Party and as a prelude, he got his wife inducted into the TDP along with his staunch supporters and that he would be supporting TDP in the upcoming elections.

1.6. Even after days of the telecast and publication of such news, the Respondent has neither denied nor controverted the contents of the same, evidencing thereby that the Respondent has, conclusively by his acts and intent, “voluntarily” given up his membership of YSRCP” within the meaning of the said expression in Para 2(1)(a) of the Tenth Schedule to the Constitution of India. The Petitioner further submitted that the YSRCP, soon after the above turn of events, has condemned the illegal activities of the Respondent in public domain.

1.7. Evidence pertaining to the activities of the Respondent, in the form of video clippings and newspaper reports, are attached herewith along with a certificate in compliance with Section 65(B) of the Indian Evidence Act, 1872.

1.8. The Respondent got elected on behalf of YSRCP Political Party in the year 2021 swearing to serve the people as a representative of the YSRCP

Political Party. Thus, the action and conduct of the Respondent amounts to breach of faith of the majority mandate. The visible and overt conduct of the Respondent undeniably amounts to voluntarily giving up his membership of the YSRCP based on whose nomination he contested in the elections and secured election. Therefore, the respondent owing to his conduct, deserves to be disqualified from being continued as Member of this Legislative Council as mandated under Para 2(1) of the Tenth Schedule to the Constitution. The Petitioner prayed to disqualify the Respondent i.e., Sri Indukuri Raghu Raju as the Respondent had voluntarily given up his membership of the political party by which he has got elected.

2. SUBMISSIONS MADE BY THE RESPONDENT:

The Respondent, consequent to the opportunity provided, had filed the first Reply Affidavit and received on 4th April, 2024 and 4 Affidavits dated 27.05.2024. In the reply affidavits, the Respondent have made the following submissions:

- 2.1. The Respondent contended that the contents of the Petition as well as the Affidavit filed in support of the same and the elements in the material that was appended to the Petition are partly false, partly incorrect and partly distorted and also stated that it is preposterous and absurd to assert that he voluntarily given up his membership and the material relied upon by the petitioner do not show even a prima facie to continue these proceedings.

- 2.2. The Respondent further stated that he is still and forever a staunch supporter of YSR Congress Party and its Leader and the Government. He did not commit any act that disqualifies him from being a member of the party as well as Member of Legislative Council and make any statements against the party and the Government and the allegations to that effect are totally false. The contents in the YouTube and the News Papers cannot be resorted to state that he voluntarily given up his membership and these contents do not show any act that led to voluntarily given up his membership.
- 2.3. The Respondent further stated that the allegations that joining his wife in Telugu Desam Party in the presence of its General Secretary and acceptance of "Khanduva" depicting the colour of the Opposition Party flag bearing the symbol of the opposition party cannot be stated to be an act done by him since his wife is totally a different entity as far as her political ambitions and there is nothing wrong even if a wife supports some other political party other than the political party to which the Husband is affiliated to. Further, the Respondent had also placed on record the details of few other Couples where wife is affiliated with one political party and the Husband is affiliated with another party, and thereby submitted that mere affiliation of his wife with an other party cannot be a ground for him to be disqualified.

- 2.4. Further, the Respondent stated that democracy being the basic structure of our constitution endowing to its citizens, constitutional right to vote under adult suffrage (Article 326); fundamental right to form association (Article 19(1)(c)); fundamental right to speech and expression (Article 19(1)(a)), triggered many a family to join different political parties adoring different ideologies and sometimes even opposing their respective spouses in elections too.
- 2.5. The Respondent also stated that the joining of his wife, along with her supporters, in the Opposition party cannot be a ground to state that he gave up his membership voluntarily and also he was not present there at the time of her joining. Further, the Respondent asserted that he cannot be held responsible for the alleged derogatory comments against the YSRCP leaders made by the persons who were present on that occasion. As such, it cannot be treated as an overt act done by him.
- 2.6. The Respondent further stated that the educational institutions invite some prominent persons of the society for annual day celebrations as guests from different walks of life including from different political parties and they share the common dais and it doesn't mean that one person has embraced the others who are affiliated to other political parties. The remarks made by the persons belonging to TDP, on the dais, cannot be attributed to him as his own expressions. The clipping of the You Tube did not show any derogatory remarks on the party as well as on the Government.

- 2.7. The Respondent also asserted that the reports in the electronic media and print media cannot be relied upon to assassinate his political career and such reports either in electronic or print media cannot be the basis to claim his disqualification and such alleged reports cannot be admitted into evidence.
- 2.8. The Respondent further stated that even after joining his wife in TDP, he supported vehemently the YSRCP Government and its schemes, programmes and principles. He attended many meetings and public gatherings and addressed them supporting and propagating the principles of YSRCP. He actively participated, along with YSRCP MLAs and activists, on the occasions of the disbursement of several benefits under YSR Cheyutha, Navaratnalu, PedalandarikiIllu etc.,.
- 2.9. During the proceedings, on 27.05.2024 the Respondent has submitted additional affidavits dated: 27.05.2024 through his messenger. The major contentions raised by the Respondent in the additional affidavits are (1) Whip has no locus standi to file a petition as there is no whip issued by him, (2) The Petitioner without following the rules 6(4), 6(5) (b), 6(6) and 7(2) of the Members of Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules filed the petition and same is liable to be dismissed, (3) To consider the nature and circumstances of the case, the petition may be referred to the committee for making a preliminary inquiry seeking a report before proceeding the case.

2.10. The Respondent has stated that the joining of his wife to Telugu Desam Party and her speeches /remarks thereafter and whatever the petitioner submitted as evidence are pertain to the conduct of his wife and those acts cannot be attributed to him by any reference as he has nothing to do with her decision to quit the YSR Congress Party.

2.11. The Respondent also stated that the statements attributed to him in the disqualification petition are completely based on newspapers/electronic media reports which are mere 'hearsay' evidences and argued that based on these evidences the disqualification proceedings cannot be initiated. Therefore, the respondent requested to dismiss the petition as the annexures filed are not in original full newspaper instead only a paper cutting has been filed which is not permissible under law for conducting any proceeding and the facts stated therein are in the nature of 'hearsay'.

2.12. The Respondent contended that the materials enclosed to the petition including paper clippings and statements therein do not establish even a prima facie case against him. The video footages also do not disclose any act or event for concluding that the respondent voluntarily given up the membership of the YSR Congress Party.

- 2.13. The Respondent further stated that on 18th March, 2024, he was invited as Chief Guest to a annual function of a private school, "Sri Gowri Vidhyaniketan English Medium High School" along with some other eminent persons in the society for giving awards for accomplished teachers and students and argued that mere participation in non-political school function as a Chief Guest would not amount to voluntarily giving up the membership of the YSR Congress Party.
- 2.14. Further, the Respondent has sought for a date after 14th June, 2024 for oral hearing on the petition on the grounds that (i) the Respondent was suffering from dehydration; (ii) that the Respondent's Counsel on record is suffering because of sun-stroke; (iii) that the Respondent's Senior Counsel is not available; and (iv) that the Respondent is in the process of collating additional information.
- 2.15. On 31st May, 2024, the Respondent chose not to appear for final oral hearing and has filed additional Affidavit stating that as the High Court and the Supreme Court are on vacation, he was unable to engage a Senior Counsel to defend the case in the scheduled oral hearing before this Authority. Meanwhile, the Respondent stated that he had a severe stomach pain and rushed to hospital, where it was diagnosed "biliary colic and

symptomatic cholelithiasis" and opined to undergo gallbladder surgery through laparoscopic cholecystectomy and also the certificate to the effect, issued by General Manager - operations (An Administrative head) was submitted. In the said circumstances the Respondent informed that he was unable to appear before this Authority and requested to grant one week time for appearing before this Authority. The Petitioner appeared before this Authority and reaffirmed his stance in accordance with the petition previously submitted.

2.16. Having granted ample opportunity of two months to collate the information, to engage a counsel and file replies, the Respondent did not attend the scheduled oral hearing and continued to seek time and continued to postpone the proceedings on one pretext or the other. As the written reply/Comments filed by the Respondent and all the material relied by the petitioner are already on record, this Authority proceeds to issue the following orders.

3. THE PROCEEDINGS BEFORE THIS AUTHORITY:

3.1. On 27th March, 2024, Sri Palavalasa Vikranth, Government Whip in Andhra Pradesh Legislative Council submitted the captioned disqualification petition and the Respondent was served a notice on the same day through India Post to offer his comments latest by 4th April, 2024 by providing all the papers (including the certificate filed under section 65 B of the Indian

Evidence Act) along with the Pen drive containing the videos and hyperlinks as are provided by the Petitioner. The copies of the Petition along with enclosures were also sent through email and Whatsapp as well. The Leader of YSRC Party was also requested to furnish his remarks on the petition by providing all the material along with the petition.

3.2. The Respondent on 4th April, 2024, filed his comments/reply affidavit on the averments made in the petition and on 2nd May, 2024 filed additional affidavit requesting two months' time to submit all relevant material in support of his contentions.

3.3. Thereafter, on 20th May, 2024, a notice was issued to the Respondent to depose before this Authority for oral hearing on 23rd May, 2024 and on the same day i.e. 20th May, 2024, the Respondent informed through his letter dated 20.05.2024, that he is unable to attend the scheduled oral hearing and requested to postpone the oral hearing on the petition to the 27th May, 2024. This Authority accepted the request made by the Respondent and served a notice to appear before this Authority for oral hearing on 27th May 2024.

3.4. On 27th May 2024, the Respondent chose not appear before this Authority and has sent additional affidavits dated 27.05.2024 expressing his inability to attend the scheduled oral hearing on 27.05.2024 as he was suffering from

dehydration and requested to postpone the oral hearing to a date after 14th June, 2024. The Petitioner appeared before this authority and reaffirmed his stance, in accordance with the petition previously submitted. It is further observed by this Authority while rejecting the plea of the Respondent for an adjournment that the due opportunity was granted to the Respondent as the respondent was willing to appear for final hearing on 27.05.2024 and only as an afterthought he had started to seek an adjournment on one pretext or the other. Further, during the personal conversations he had with this authority, the Respondent had expressed his intention is to dodge the proceedings on one pretext or the other. Further, the Respondent had indeed made inappropriate comments which had further established that the required and reasonable opportunity was granted and that the Respondent was merely trying to procrastinate the proceedings. In the said context, the request for time was rejected and thereby the proceedings was later reserved for orders as there was no change in the behaviour of the Respondent.

- 3.5. Thereafter, on 27th May, 2024, a notice was issued to the Respondent to appear before this Authority for final oral hearing on 31st May, 2024 and informed that in the event of failure to appear before this Authority on that day the matter will be concluded and the proceedings shall be decided and Orders will be passed on the basis of available record.

3.6. On 28th May, 2024, the Respondent, through his letter dated: 28.05.2024, has again requested to fix a date after 14th June, 2024 for oral hearing on the petition for collating relevant material and to engage a counsel. On 29th May, 2024, a notice was issued to the Respondent informing that the reasonable time had already been given for submitting all the relevant material and to engage a counsel and once again requested to appear before this Authority on 31st May, 2024 so as to conclude the proceedings.

3.7. On 31st May, 2024, the Respondent chose not to appear for final oral hearing and has filed additional Affidavit and a petition stating that as the High Court and the Supreme Court are on vacation, he was unable to engage a Senior Counsel to defend the case in the scheduled oral hearing before this authority. Meanwhile, the Respondent stated that he had a severe stomach pain and rushed to hospital and where it was diagnosed biliary colic and symptomatic cholelithiasis and opined to undergo gallbladder surgery through laparoscopic cholecystectomy. In the said circumstances the Respondent informed that he was unable to appear before this Authority and requested to grant one week time for appearing before this Authority. The Petitioner appeared before this authority and reaffirmed his stance, in accordance with the petition previously submitted. Upon considering the submissions made by the Respondent, the Petition was dismissed and the matter was reserved for orders.

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and also the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

- 1. Whether the Petition filed by the Petitioner/Govt. Whip is maintainable in its present form?*
- 2. Whether referring the Petition filed by the Petitioner to committee is Mandatory procedural requirement or not? If it is not Mandatory whether present case is a fit case to refer to a committee or not?*
- 3. Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party?*
- 4. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

- 5.1. Whether the Petition filed by the Petitioner/Govt. whip is maintainable in its present form? And whether referring the Petition filed by the Petitioner to committee is Mandatory procedural requirement or not? If it is not Mandatory whether present case is a fit case to refer to committee or not? As the said Issues are intertwined, this Authority is dealing to analyse both the Issues simultaneously.*

5.1.1. Under Para 2(1)(a) of the Tenth Schedule of the Constitution of India, a petition alleging defection can be filed by any member of a legislative body against another member of that House who is alleged to have voluntarily given up the membership of their original political party. This means that any member of a Legislative Assembly or Legislative Council as the case may be, whether from the ruling party, opposition, or any other party, can file such a petition if they have reasonable grounds to believe that another member has defected from their original party. The petition must be submitted to the Speaker or the Chairman as the case may be, in which the alleged defection has occurred in accordance with the rules. Therefore, the objection that Government whip cannot file a petition is rejected as untenable.

5.1.2. The Respondent argued that the Petition filed by the Petitioner is not in compliance with the mandatory requirements specified under Rule 6(6) the Member of Andhra Pradesh Legislative Council (Disqualification on ground of Defection) Rules and therefore, the Petition is liable to be rejected under Rule 7(2) of the Rules.

The above-mentioned Rules read as hereunder:

Rule 6(6) – Every Petition shall be signed by the Petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for verification of pleadings.

Rule 7(2) – If the Petition does not comply with the requirements of Rule 6, the Chairman shall dismiss the Petition and intimate the Petitioner accordingly.

5.1.3. Upon reading the above provisions, it could be seen that Rule 6(6) refers to the provisions of the Civil Procedure Code, 1908 and unless the relevant provision of the Code is read into the above-mentioned provision, the provision cannot be considered as complete. Therefore, the relevant Order VI Rule 15 is extracted hereunder:

Order VI Rule 15 CPC lays down that a pleading must be verified in the following manner:

- i. Every pleading compulsorily needs to be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.*
- ii. The person who verifies a pleading needs to specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.*
- iii.*
- iv.*

5.1.4. While considering the above provisions, it could be comfortably deduced that every Petition/Pleading that is placed before this authority is required to be duly verified by party filing such a pleading.

5.1.5. In the present set of facts, the Petition, *per se*, may not have been affixed with verification at its bottom, but the said Petition is accompanied with an affidavit. It could further be seen that the affidavit reiterated each and every

statement that was made in the Petition and the said Affidavit was duly and appropriately verified with verification at its end. It could be deduced that the Petition and the accompanying affidavit together will have to be considered as pleading and as the contents of the Petition are duly verified by way of a verification in the accompanying affidavit, it shall be considered that the procedural requirement as is contemplated under the Rule 6(6) of the Rules stands fully complied with.

5.1.6. Further, it is settled principle of law that the requirement of Order VI Rule 15 is procedural and thereby if the objective of the said provision stands achieved, then, the Petition need not be dismissed on the said sole technical ground as pleaded by the Respondent. Having recorded the above, the Petition filed by the Petitioner is well in compliance of the said applicable Rules and thereby the hyper-technical objection of the Respondent is hereby rejected.

5.1.7. The Rule 7(7) of the Members of Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules, stipulates that the Chairman while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person.

5.1.8. In this regard the following observation made by the supreme court in its judgment dated the 11th of December, 2006 in ***Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)*** is relevant:

“The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case”.

5.1.9. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case; the Respondent was provided all the material, digital links in a pen drive and ample time to rebut the allegations of the Petitioner. The Respondent has been given reasonable opportunities to submit his reply and submissions on the averments made in the petition. The Respondent has also been given reasonable opportunities to be heard and has tried to delay and dodge the disqualification proceedings.

The Respondent has not made use of the opportunities provided. The actions clearly evidence the procrastinating attitude of the Respondent. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case.

5.1.10. In the instant case, even if the Respondent not able to attend the oral hearing personally, he could have placed his submission through a counsel which he has avoided and the certificate, submitted as an attachment to the affidavit/petition filed by the Respondent, issued by "Narayana Medciti hospital" to the effect that the Respondent was diagnosed with "biliary colic and symptomatic cholelithiasis" cannot be considered as the said certificate has not been issued by the treating Doctor, instead it was issued by a General Manager - operations, an Administrative head. Further, the Respondent requested to grant one more week time to appear before this Authority. While taking into consideration of the above circumstances, the Respondent is not entitled for any further time and thereby the request for further time was rejected.

5.1.11. This Authority also takes this opportunity to address one issue before going ahead to deal with the other issues. There has been a criticism about some presiding officers not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time.

Some cases are kept pending for years contrary to the law. It is pertinent to note that the Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

5.1.12. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this authority feel that the disqualification petition must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition. Therefore, the objections raised by the Respondent questioning the Form and the Format of the Petition are denied as baseless.

5.1.13. The procedural requirements of the Committee of Privileges often necessitate a prolonged timeframe to conduct preliminary inquiries and subsequently prepare and submit final reports. The said requirement inadvertently lead to delays in the progression of proceedings and the

ultimate determination of the final question at hand, thereby contravening the underlying objectives of the Tenth Schedule of Constitution of India. Such delays, if left unchecked, have the potential to undermine the essence of the Anti-Defection Law, which primarily aims to mitigate the deleterious effects of defection by ensuring that members are duly held accountable for their actions.

5.1.14. Notwithstanding instances of defection, a member cannot be afforded impunity from the consequences thereof solely on the grounds of procedural technicalities. This jurisprudential stance underscores the imperative of upholding the integrity of anti-defection measures, notwithstanding procedural nuances. At this juncture, it is imperative to note that the Hon'ble Apex Court in ***Jagjit Singh Vs. State of Haryana & Ors [(2006) 11 SCC 1]***, had observed as follows:—

"Despite defection a member cannot be permitted to get away with it without facing the consequences of such defection only because of mere technicalities."

5.1.15. Further, sub-rule (4) of Rule 7 of the Rules reads as follows:—

"After considering the comments, if any, in relation to the petition, received under sub-rule (3) within the period allowed (whether originally or on extension under that sub-rule), the Chairman may either proceed to determine the question or, if he is satisfied, having regard to the nature and circumstances of the case that it is necessary or expedient so to do, refer the petition to the Committee for making a preliminary inquiry and submitting a report to him."

5.1.16. Upon bear perusal of sub-rule (4) of Rule 7 of the Rules governing such proceedings delineates a discretionary authority vested in the Chairman. This provision stipulates that subsequent to due consideration of comments, if any, pertaining to the petition, the Chairman may elect to proceed with determining the question autonomously or, if deemed necessary or expedient, refer the matter to the Committee for a preliminary inquiry and subsequent report submission.

5.1.17. At this juncture it becomes imperative to observe that mandatory referral to the Committee is not a prerequisite in every instance, but rather contingent upon the specific nature and circumstances of the case. The Chairman possesses the discretion to either opt for direct adjudication or refer the matter for preliminary inquiry, depending on the exigencies of the situation. It is noteworthy to emphasize the use of the term 'preliminary inquiry' in sub-rule (4) of Rule 7, indicative of the fact that even subsequent to the Committee's preliminary investigation, the ultimate analysis and determination of facts rest within the purview of the Chairman.

5.1.18. In the light of these statutory provisions and legal precedents, it is evident that it is not mandatory to refer each and every case to the Committee of Privileges as a matter of routine. Depending upon the nature and circumstances of the case, the Chairman may or may not refer the petition to the Committee for making a preliminary inquiry. However, it was

incumbent upon this Authority to exercise discretion judiciously in the interest of justice and after considering nuances of the Anti-Defection Law.

5.1.19. Therefore, when the facts of the case are clear, the Chairman, in his wisdom, may decide to proceed in the matter on his own. Attention is also drawn to the use of the word 'preliminary inquiry' in sub-rule (4) of Rule 7, which means that even after a preliminary inquiry by the Committee, it is for the Chairman to finally analyse the facts and come to a final conclusion. Further, even in accordance with the literal rule of construction and pursuant to the discretion conferred upon this Authority, it was imperative to ascertain that a prima facie case had been established prior to invoking such discretion. Consequently, having duly assessed the factual matrix and contextual circumstances of the present case, this Authority resolved to proceed with the determination of the question of disqualification concerning the Respondent autonomously, in adherence to the principles of fairness and expediency.

5.2. *Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party? & whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*As the said Issues are intertwined, this Authority dealing to analyse both the Issues simultaneously.

5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and is having voluntarily given up membership of the YSRC Party. The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that the contents in the Youtube and the News Papers cannot be resorted to state that voluntarily given up the membership of YSRCP.

5.2.2. Prior to dealing with the admissibility of the material that is relied upon by the Petitioner, this Authority wish to consider the *prima facie* value of the pleadings filed by both the Petitioner and the Respondent. Primarily, the Petitioner, even before relying upon the newspaper clippings and the videos which suggest the anti-political party activities of the Respondent, had categorically and unequivocally referred in the Petition the specific events while mentioning the dates on which such specific acts were committed by the Respondent.

5.2.3. For Example: At Para 3.9 (c) of the Petition, the Petitioner pleaded as follows:

“c. the Respondent himself has attended Annual Day Celebration of Sri Gowri Vidya Nikethan along the TDP in charge of Srungavarapukota constituency, Smt. Kolla Lalitha Kumari and has made expressed his displeasure towards the act of the YSRC Party and its leaders and was mentioning that he does not want to continue in YSRC Party and as a prelude, he got his wife inducted into the TDP along with his staunch supporters and that he would be supporting TDP in the upcoming elections...”

5.2.4. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent extended his support to the Opposition Party and expressed his displeasure towards the act of the YSR Congress Party and its Leaders. Further, it could also be seen that the Petition also records other events in which it is clearly averred that the Respondent had extended his support / solidarity to the Opposition Party by joining his wife, Smt. Sudha Rani along with 15 Sarpanches, 15 MPTCs and 5 Conveners of YSRC Party in the Opposition Party/ Telugu Desam Party on 04.03.2024 in the Presence of Sri Nara Lokesh, TDP General Secretary.

5.2.5. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instances where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and

transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

5.2.6. Further, in most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *manoeuvring* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it's imperative that these evidences are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

5.2.7. Upon reading the above allegations, this Authority looked into the corresponding response of the Respondent in the Reply filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, he chose only to take a technical objection that the contents in the Youtube and the News Papers cannot be resorted to state that he voluntarily given up his

membership. Upon perusal of the record, it is clearly visible that the Respondent had not denied the actual allegations of his support for joining his wife to the Opposition Party in the presence of Sri Nara Lokesh, General Secretary, Telugu Desam Party. The Respondent, as stated by the petitioner, during the annual day celebrations of "Sri Gowri Vidya Nikethan English Medium High School", expressed his displeasure towards the act of the YSR Congress Party and its Leaders and also uttered that he would be supporting TDP in the upcoming elections. In the said circumstances, it is imperative to conclude that the Respondent had admitted the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by his conduct which is not denied by the Respondent.

- 5.2.8. The Respondent tactfully states in his Reply Affidavit that himself and his wife are two separate entities and that he cannot be made responsible for the action of his wife. Firstly, the said averment, if looked into in the light of this Authority's personal knowledge about the defunctious actions of the Respondent, it could be clearly stated that the said argument is being pleaded by the Respondent merely to camouflage his true intentions. The fact that the Respondent had made derogatory statements against the YSR Congress Party and its leaders in public is known to one and all and this Authority also and thereby it is clear that the plea of the Respondent and his wife being a separate entity is not valid and has no force in it.

5.2.9. Further, technically, though the Respondent and his wife will have to be looked at as separate entities, in the present circumstances, consequent to the facts: (i) that they both are not estranged, (ii) that they both are living under a same roof, (iii) that as per the personal knowledge of this Authority the wife of the Respondent was indeed escorted personally to the TDP office, and (iv) that the Respondent had indeed personally participated in several negotiations and meetings with the TDP officials; establishes clear circumstances to believe that the Respondent had indeed acted against the YSR Congress Party and thereby the fact that he had voluntarily given up his membership of the political party on which the Respondent was elected as member.

5.2.10. Further, it is also observed that the Respondent clearly and categorically fails to explain as to why 15 Sarpanches, 15 MPTCs and 5 Conveners of YSRC Party have also joined the TDP Party. It is pertinent to note that had the Respondent intended to continue as a member of YSR Congress Party, then, he would have certainly made an effort to ensure that the cadre of YSR Political Party is not depleted. In the present set of facts, consequent to the personal knowledge of this Authority, it could reliably be stated that the Respondent had indeed been instrumental in letting his wife along with his supporters to join the TDP. Such actions of the Respondent are clear evidence of the fact of Respondent voluntarily giving up the membership of the political party on which the Respondent was elected.

5.2.11. Further, relying upon the proposition established by the Hon'ble Supreme court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)*, in addition to the material placed on record, this authority has considered its personal knowledge gathered through the events that have happened during the proceedings of the Council and also by the statements made by the Respondents to him and also depending upon the personal knowledge w.r.t., the illegalities perpetrated by the Respondent, had arrived at a conclusion that the Respondent had indeed acted in a manner through which it could be categorically and substantially be considered that the Respondent had voluntarily given up his membership of the political party on which the Respondent was elected.

5.2.12. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in this Authority's view, in most of the disqualification cases, under the X Schedule to the Constitution of India, media reports are the only evidence available and cases have been decided by the Presiding Officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.13. In the instant case some leading telugu newspapers have reported that the Respondent had supported joining his wife to Telugu Desam Party. Other media reports and photographs collaborate this and the Respondent, during the annual day celebrations of Sri Gowri Vidya Nikethan English Medium High School participating along with leaders of opposition Telugu Desam Party. As stated in the petition, the Respondent allegedly expressed his displeasure towards the act of the YSR Congress Party and its Leaders and also uttered that he would be supporting TDP in the upcoming elections. He has not given any proof of refuting/denying the media reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case he has not done so nor has the Respondent given the proof of doing so.

5.2.14. The Supreme Court in a landmark judgment in the case of **Ravi S. Naik vs. Union of India** on 9th February, 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Members of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party“ if he has voluntarily given up his membership” are not synonymous with “resignation” and

have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.15. In the background of the settled above propositions, this Authority propose to examine the Members of Andhra Pradesh Legislative Council (Disqualification on ground of Defection) Rules. Under Para 6(1) the Chairman is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.16. On the basis of evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the Respondent has been duly informed. The allegations made in the Petition, the material produced by the Petitioner before this Authority, established that the Respondent wilfully had joined hands with the opposition party which is detrimental to the political party on which the Respondent was elected as member.

5.2.17. Additionally, as per the proposition as laid by the Hon'ble Supreme Court in ***Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)***, I record that the Respondent had indeed acted against its original political party and thereby also, the Respondent is liable to be disqualified.

5.2.18. Further, it is imperative to record that inspite of an opportunity given to the Respondent to rebut the pleadings and the material so presented by the Petitioner, it was not availed for the reasons best known to the Respondent himself, and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* categorically proved that the Respondent had indeed acted against his original political party and thereby he defected into TDP.

6. CONCLUSION:

In the said circumstances and taking into consideration of the anti party activities of the Respondent and the material placed before this Authority and also based on the above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule and Rule 8 of the members of the Andhra Pradesh Legislative Council (Disqualification on ground of Defection) Rules, this Authority hold that Sri Indukuri Raghu Raju, Member of Legislative Council, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule to the Constitution of India.

Thus, the Respondent, Sri Indukuri Raghu Raju, stands disqualified for continuing as Member of the Andhra Pradesh Legislative Council and it is declared that his seat has fallen vacant.

KOYYE MOSHENU RAJU,
Chairman,
Andhra Pradesh Legislative Council.

Velagapudi,
Date:03.06.2024.

Dr. P.P.K. RAMACHARYULU,
Secretary General to State Legislature.

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